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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,990	04/15/2002	Derek Leslie Arnold	ARNOLD	2617
545	7590	06/02/2004	EXAMINER	
ANTHONY H. HANDAL KIRKPATRICK & LOCKHART, LLP 599 LEXINGTON AVENUE 31ST FLOOR NEW YORK, NY 10022-6030			NERBUN, PETER P	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/049,990

**Applicant(s)**

ARNOLD, DEREK LESLIE

**Examiner**

Peter P Nerbun

**Art Unit**

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12,13 and 15-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12,13,15-22,25 and 27-31 is/are rejected.
- 7) ☒ Claim(s) 23,24 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03252004</u> . | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> .           |

Continuation of Attachment(s) 6). Other: Examiner's Statement of Reasons for Allowance.

The disclosure is objected to for containing minor errors. On page 1, line 15 and on page 2, line 28 of the specification, "Derk's" should be changed to --Derek's--; on page 1, line 31, "optimised" should be changed to --optimized--.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second peripheral resilient sealing and spacing member must be shown or the feature(s) canceled from claim 24 where it is recited. Note that support for this recitation is provided on page 3, lines 23-31 of the specification as originally filed. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12,15,16,18,21,22,27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baharad et al in view of Dawn et al, both newly cited.

The patent to Baharad et al discloses a visor assembly comprising an inner shield 30, Fig. 6, an outer shield 60, spaced from the inner shield and carrying mechanical fixing elements 62, Fig. 1 to fix the inner shield to the outer shield, the inner shield being located within the periphery of the outer shield and being spaced from and detachably engageable with the outer shield, additional fixing elements 2, etc., Fig. 1 for fixing the outer shield to a support component 20 and a sealing and spacing member 33, Fig. 6 extending around the periphery of the inner shield on a surface facing the outer shield to seal and space the inner shield from the outer shield (see col. 4, lines 48-52). To construct the visor assembly of Baharad et al with the sealing member being fabricated of flexible silicone material as suggested by Dawn et al (at col. 2, lines 40-45) would have been obvious since It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the visor assembly of Baharad et al with the sealing member being fabricated of flexible silicone material as suggested by Dawn et al (at col. 2, lines 40-45), since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Claims 13,17,21,22,25,27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold (U.S.P. 5,765,235) in view of Baharad et al and Dawn et al. Arnold is of record. The patent to Arnold discloses a visor assembly

comprising an inner shield 6, Fig. 2, an outer shield 2, spaced from the inner shield and carrying mechanical fixing elements 11 to fix the inner shield to the outer shield, the inner shield being located within the periphery of the outer shield and being spaced from and detachably engageable with the outer shield, additional fixing elements 4, etc. for fixing the outer shield to a support component, the support component optionally being a helmet 3. To construct the visor assembly of Arnold with a sealing and spacing member extending around the periphery of the inner shield on a surface facing the outer shield to seal and space the inner shield from the outer shield as suggested by Baharad et al (at 33, Fig. 6) would have been obvious since Baharad et al states that such a seal and spacing member ensures that dust and vapor do not collect between the shields (see col. 4, lines 54 of Baharad et al). Further to construct the visor assembly of Baharad et al with the sealing member being fabricated of flexible silicone material as suggested by Dawn et al (at col. 2, lines 40-45) would have been obvious since It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the visor assembly of Baharad et al with the sealing member being fabricated of flexible silicone material as suggested by Dawn et al (at col. 2, lines 40-45), since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baharad et al in view of Dawn et al, taken as applied to claims 12,15,16,18,21,22,27, and 28 above and further in view of Scholz et al (U.S.P. 5,753,373). Scholz et al is of record. To construct the formed visor assembly of Baharad et al with a coating that counteracts misting and a coating that is scratch-resistant as suggested by Scholz (in lines 1-2 and 4-6 of the Abstract and col. 19, lines 57-58 of the specification) would have been obvious since the visor would remain transparent under conditions of high humidity and would be protected from rough or careless handling by its user.

Claims 23, 24, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In the case of claim 24, the objection to the drawings set forth hereinabove must also be overcome before the claim can be deemed allowable.

The following is an examiner's statement of reasons for allowance:

Claim 23 is deemed allowable since the claim recites a visor assembly comprising an outer shield having a recess corresponding to the external dimensions of an inner shield and wherein the inner shield is accommodated in the outer shield recess and a sealing and spacing member extending around the periphery of the inner shield, on a surface facing the outer shield, to seal and space the inner shield from the outer shield.

Claim 24 is deemed allowable since the claim recites a visor assembly comprising an outer shield, a sealing and spacing member extending around the periphery of an inner shield, on a surface facing the outer shield, to seal and space the inner shield from the outer shield, a mist-resistant coating on one surface of the inner shield and a second peripheral resilient sealing and spacing member adhered to the other surface and wherein the inner shield is reversible to dispose the mist-resistant coating either inwardly or outwardly of the space between the inner and the outer shield.

Claim 25 is deemed allowable since the claim recites a visor assembly comprising an inner shield, an outer shield carrying mechanical fixing elements to fix the inner shield to the outer shield, a sealing and spacing member extending around the periphery of an inner shield, on a surface facing the outer shield, to seal and space the inner shield from the outer shield, wherein the mechanical fixing elements comprise pins fitted on the outer shield and recesses in the inner shield and wherein the mechanical fixing elements comprise a seat in the outer shield the seat at least partially corresponding to shape of the inner shield.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".



The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 29 is rejected under 35 U.S.C. 102(a) as being anticipated by Baharad et al. The patent to Baharad et al discloses a visor assembly comprising an inner shield 30, Fig. 6, an outer shield 60, spaced from the inner shield and carrying mechanical fixing elements 62, Fig. 1 to fix the inner shield to the outer shield, the inner shield being located within the periphery of the outer shield and being spaced from and detachably engageable with the outer shield, additional fixing elements 2, etc., Fig. 1 for fixing the outer shield to a support component 20 and a sealing and spacing member 33, Fig. 6 extending around the periphery of the inner shield on a surface facing the outer shield to seal and space the inner shield from the outer shield (see col. 4, lines 48-52).


Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold (U.S.P. 5,765,235) in view of Baharad et al. To construct the visor assembly of Arnold with a sealing and spacing member extending around the periphery of the inner shield on a surface facing the outer

shield to seal and space the inner shield from the outer shield as suggested by Baharad et al (at 33, Fig. 6) would have been obvious since Baharad et al states that such a seal and spacing member ensures that dust and vapor do not collect between the shields (see col. 4, lines 54 of Baharad et al).

If applicant has any questions regarding the instant Office action, the examiner may be contacted at (703) 308-0955 from Monday to Friday between 10:00AM to 7:30PM during alternate weeks and from Monday to Wednesday between 10:00AM to 7:30PM on the remaining alternate weeks. At other times between Monday and Friday applicant may contact the examiner's supervisor John Calvert at (703) 305-1025.

Peter Nerbun

May 27, 2004



Peter Nerbun  
Primary Examiner